

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TODD WINCUP,

Plaintiff,

v.

GIGAMEDIA ACCESS CORPORATION and
JP MORGAN CHASE AND CO.

Defendants.

Index #:

COMPLAINT

Introduction & Overview

1. This case is brought seeking damages for the failure of Defendant GigaMedia Access Corporation (GigaMedia) to pay plaintiff money due under written agreements. JP Morgan Chase and Co. is joined as a defendant because it holds assets belonging to GigaMedia.

Jurisdiction and Venue

2. This Court has original subject matter jurisdiction over this action because there is a complete diversity of citizenship. GigaMedia regularly does business in this district and assets of GigaMedia are located in this district.

Parties

3. Plaintiff Todd Wincup (“Wincup”) is, and at all times hereafter mentioned, an individual with a principal residence in Bethesda Maryland.

4. Upon information and belief, Defendant GigaMedia Access Corporation (“GigaMedia”), also known as GigaTrust is a corporation having a principal office in Herndon, Virginia. Upon information and belief, GigaMedia does business throughout the United States, including the Southern District of New York.

5. Defendant JP Morgan Chase and Co. is a banking and investment company with a principal place of business in the Southern District of New York.

Facts

6. Beginning in July of 2006, and continuing until November 2012, Wincup purchased six hundred and fifty thousand (650,000) Warrants from GigaMedia. Those Warrants

which were convertible to preferred shares issued by GigaMedia contained provisions which required GigaMedia to redeem them from Wincup on or before December 11, 2017.

7. In or about November and early December 2017, GigaMedia represented to Wincup that it did not have sufficient funds to redeem these Warrants, and asked Wincup to extend the redemption date.

8. After negotiation, Wincup agreed to extend the redemption date upon the condition that GigaMedia redeem all of his 650,000 Warrants on or before June 30, 2018 for \$1.00 per Warrant, and also agree to purchase two hundred thousand (200,000) shares of the Preferred stock of GigaMedia held by Wincup for \$1.00 per share.

9. GigaMedia agreed to these terms. The extension and redemption of Warrants was memorialized in a written agreement sign by both parties. The agreement on the stock repurchase was acknowledged in an email exchange in which GigaMedia represented that its lawyer would prepare the appropriate documents. No such documents were ever prepared, or if prepared, were never provided to Wincup.

10. GigaMedia failed to redeem Wincup's Warrants when due and failed to repurchase his common stock as agreed.

11. GigaMedia to date has paid Wincup \$330,000. Wincup was informed that the funds for this purchase originated in a financial transaction with JP Morgan.

12. Wincup believes that as a result of the transaction referred to above, JP Morgan holds funds of GigaMedia or credits of money due GigaMedia under a line of credit or similar borrowing arrangement which are available to satisfy its agreements with Wincup.

13. GigaMedia owes Wincup \$530,000 and despite demands has refused to pay.

FIRST CLAIM
CLAIM FOR RELIEF

BREACH OF CONTRACT

14. Wincup repeats, realleges, and incorporates by reference in this paragraph the allegations contained in paragraphs 1 through 13 as if fully set forth herein.

15. This is a clear-cut case of breaches of contract supported by irrefutable evidence.

16. GigaMedia owe Wincup \$530,000 and Wincup is entitled to immediate payment, \$330,000 GigaMedia admits is due and owing, and \$200,000 it has no grounds to deny.

SECOND CLAIM
EQUITABLE ATTACHMENT

17. Wincup repeats and hereby incorporates herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1-16.

18. JP Morgan holds funds or credits of GigaMedia sufficient to satisfy its debt to Plaintiff.

19. JP Morgan is a party to this litigation so that Wincup may secure the judgment to which he is entitled by either attaching funds held by JP Morgan or obtaining equitable relief.

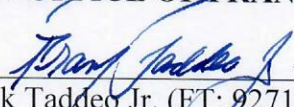
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgement as follows:

1. Judgment enter against GigaMedia in the amount of \$530,000 plus costs and interest.
2. A pre-judgment order of attachment of all funds, credits and assets of GigaMedia held by JP Morgan issue.
3. A preliminary injunction issue against JP Morgan enjoining it from holding less than \$600,000 in credit for GigaMedia, which amount will be available upon final judgment to pay Wincup the amount due plus accumulated interest.
4. For such other and further relief as the Court deems just and proper.

Dated: May 7, 2019

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